



United States  
of America

# Congressional Record

PROCEEDINGS AND DEBATES OF THE 110<sup>th</sup> CONGRESS, FIRST SESSION

Vol. 153

WASHINGTON, WEDNESDAY, DECEMBER 19, 2007

No. 195

## Senate

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, December 19, 2007.

*To the Senate:*

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania, to perform the duties of the Chair.

ROBERT C. BYRD,  
*President pro tempore.*

Mr. CASEY thereupon assumed the chair as Acting President pro tempore.

### RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

### SCHEDULE

Mr. REID. Mr. President, morning business will be what we will do most of the day. We have a 10-minute limitation, as we normally do, except for JACK REED, who has an order for 30 minutes. We are going to recess today at 12:30 for a Democratic conference and then reconvene at 2:15. We have a number of issues we will be working through today, the House is sending us, we are going to send them. There are, of course, no votes, and we will do our very best to finish as soon as we can. I spoke to both Majority Leader HOYER and Speaker PELOSI today. They expect to finish around 6 or 7 tonight. So during that time we will be running things back and forth with each other until we get this worked out.

### ORDER FOR RETURN OF PAPERS— H.R. 2764

Mr. REID. Mr. President, this request has been approved by the Republicans. I ask unanimous consent that the Senate request the House to return the papers relative to H.R. 2764.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

### INTEGRATED DEEPWATER PROGRAM REFORM ACT

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to Calendar No. 171, S. 924.

The ACTING PRESIDENT pro tempore. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 924) to strengthen the United States Coast Guard's Integrated Deepwater Program.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science and Transportation with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

#### SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) *SHORT TITLE.*—This Act may be cited as the “Integrated Deepwater Program Reform Act”.

(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Procurement structure.

Sec. 3. Analysis of alternatives.

Sec. 4. Certification.

Sec. 5. Contract requirements.

Sec. 6. Improvements in Coast Guard management.

Sec. 7. Procurement and report requirements.

Sec. 8. GAO review and recommendations.

Sec. 9. Inspector General review of Deepwater program.

Sec. 10. Definitions.

#### SEC. 2. PROCUREMENT STRUCTURE.

(a) *IN GENERAL.*—

(1) *USE OF LEAD SYSTEMS INTEGRATOR.*—Except as provided in subsection (b), the United States Coast Guard may not use a private sector entity as a lead systems integrator for procurements under, or in support of, the Integrated Deepwater Program after the date of enactment of this Act.

(2) *FULL AND OPEN COMPETITION.*—The United States Coast Guard shall utilize full and open competition for any other procurement for which an outside contractor is used under, or in support of, the Integrated Deepwater Program after the date of enactment of this Act.

(b) *EXCEPTIONS.*—

(1) *COMPLETION OF PROCUREMENT BY LEAD SYSTEMS INTEGRATOR.*—Notwithstanding subsection (a), the Coast Guard may use a private sector entity as a lead systems integrator—

The Senate met at 11:30 a.m. and was called to order by the Honorable ROBERT P. CASEY, Jr., a Senator from the State of Pennsylvania.

#### PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Our Father, when we look to the heavens, the works of Your fingers, the Moon and the stars that You have established, what is humanity that You are mindful of us? May those thoughts of Your Majesty lead us to humility and a willingness to acknowledge our weakness and failure as we receive Your strength and wisdom.

Give our Senators a passion for Your glory. Help them to remember Your words: Those who exalt themselves shall be abased, and those who humble themselves shall be exalted.

Today, I personally thank You for the gifts of TRENT and TRICIA LOTT. I praise You for their friendship, their faithfulness, and their fervor for You. As they leave the Senate, surround them with Your grace, power, and love.

We ask this in the Name of Him who is perfection incarnate. Amen.

#### PLEDGE OF ALLEGIANCE

The Honorable ROBERT P. CASEY, Jr., led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

#### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. BYRD).

The legislative clerk read the following letter:

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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(A) to complete any delivery order or task order that was issued to the lead systems integrator on or before the date of enactment of this Act without any change in the quantity of assets or the specific type of assets covered by the order;

(B) for procurements of—

(i) the HC-130J and the C4ISR, and

(ii) National Security Cutters or Maritime Patrol Aircraft under contract or order for construction as of the date of enactment of this Act, if the requirements of subsection (c) are met with respect to such procurements; and

(C) for the procurement of additional National Security Cutters or Maritime Patrol Aircraft if the Commandant determines, after conducting the analysis of alternatives required by section 3, that—

(i) the justifications of FAR 6.3 are met;

(ii) the procurement and the use of a private sector entity as a lead systems integrator for the procurement is in the best interest of the Federal government; and

(iii) the requirements of subsection (c) are met with respect to such procurement.

(2) **AWARDS TO TIER 1 SUBCONTRACTORS.**—The Coast Guard may award to any Tier 1 subcontractor or subcontractor below the Tier 1 level any procurement that it could award to a lead systems integrator under paragraph (1).

(3) **REPORT ON DECISION-MAKING PROCESS.**—If the Coast Guard determines under paragraph (1) that it will use a private sector lead systems integrator for a procurement, the Commandant shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure notifying the Committees of its determination and explaining the rationale for the determination.

(c) **LIMITATION ON LEAD SYSTEMS INTEGRATORS.**—Neither an entity performing lead systems integrator functions for a procurement under, or in support of, the Integrated Deepwater Program, nor a Tier 1 subcontractor, for any procurement described in subparagraph (B) or (C) of subsection (b)(1) may have a financial interest in a subcontractor below the tier 1 subcontractor level unless—

(1) the entity was selected by the Coast Guard through full and open competition for such procurement;

(2) the procurement was awarded by the lead systems integrator or a subcontractor through full and open competition;

(3) the procurement was awarded by a subcontractor through a process over which the lead systems integrator or a Tier 1 subcontractor exercised no control; or

(4) the Commandant has determined that the justifications of FAR 6.3 are met.

### SEC. 3. ANALYSIS OF ALTERNATIVES.

(a) **IN GENERAL.**—Except with respect to a procurement described in subparagraph (A) or (B) of section 2(b)(1) of this Act, or a procurement for which a request for proposals consistent with the FAR has been issued before the date of enactment of this Act, no procurement may be awarded under the Integrated Deepwater Program until an analysis of alternatives has been conducted under this section.

(b) **INDEPENDENT ANALYSIS.**—As soon as possible, but no later than 120 days after the date of enactment of this Act, the Commandant shall execute a contract for an analysis of alternatives with a Federally Funded Research and Development Center, an appropriate entity of the Department of Defense, or a similar independent third party entity that has appropriate acquisition expertise for independent analysis of all of the proposed procurements under, or in support of, the Integrated Deepwater Program, including procurements described in section 2(b)(1)(B), and for any future major changes of such procurements. The Commandant may not contract under this subsection for such an analysis with any entity that has a substantial fi-

nancial interest in any part of the Integrated Deepwater Program as of the date of enactment of this Act or in any alternative being considered.

(c) **ANALYSIS.**—The analysis of alternatives provided pursuant to the contract under subsection (b) for procurements and feasible alternatives shall include—

(1) an examination of capability, interoperability, and other advantages and disadvantages;

(2) an evaluation of whether different quantities of specific assets could meet the Coast Guard's overall performance needs;

(3) a discussion of key assumptions and variables, and sensitivity to changes in such assumptions and variables;

(4) an assessment of technology risk and maturity;

(5) an evaluation of safety and performance records; and

(6) a calculation of costs, including life-cycle costs.

(d) **REPORT TO CONGRESS.**—As soon as possible after an analysis of alternatives has been completed, the Commandant shall develop a plan for the procurements addressed in the analysis, as well as procurements described in subsection (a) for which no analysis of alternatives is required, and shall transmit a report describing the plan, and the schedule and costs for delivery of such procurements to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

### SEC. 4. CERTIFICATION.

(a) **IN GENERAL.**—After the date of enactment of this Act, a contract, delivery order, or task order exceeding \$10,000,000 for procurement under, or in support of, the Coast Guard's Integrated Deepwater Program may not be executed by the Coast Guard until the Commandant certifies that—

(1) appropriate market research has been conducted prior to technology development to reduce duplication of existing technology and products;

(2) the technology has been demonstrated to the maximum extent practicable in a relevant environment;

(3) the technology demonstrates a high likelihood of accomplishing its intended mission;

(4) the technology is affordable when considering the per unit cost and the total procurement cost in the context of the total resources available during the period covered by the Integrated Deepwater Program;

(5) the technology is affordable when considering the ability of the Coast Guard to accomplish its missions using alternatives, based on demonstrated technology, design, and knowledge;

(6) funding is available to execute the contract, delivery order, or task order; and

(7) the technology complies with all relevant policies, regulations, and directives of the Coast Guard.

(b) **LIMITATION.**—Nothing in this section shall prevent the Coast Guard from executing contracts or issuing deliver orders or task orders, for research and development or technology demonstrations under, or in support of, the Integrated Deepwater Program.

(c) **REPORT TO CONGRESS.**—The Commandant shall transmit a copy of each certification required under subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 30 days after the completion of the certification.

### SEC. 5. CONTRACT REQUIREMENTS.

The Commandant shall ensure that any contract, delivery order, or task order for procurement under, or in support of, the Integrated Deepwater Program executed by the Coast Guard—

(1) addresses the recommendations related to award fee determination and award term evaluation made by the Government Accountability Office in its March, 2004, report entitled *Coast Guard's Deepwater Program Needs Increased Attention to Management and Contractor Oversight*, GAO-04-380, and any subsequent Government Accountability Office recommendations relevant to the contract terms issued before March 1, 2007, including the recommendation that any award or incentive fee be tied to program outcomes;

(2) provides that certification of any Integrated Deepwater Program procurement for performance, safety, and other relevant factors determined by the Commandant will be conducted by an independent third party;

(3) does not include—

(A) for any contract extending the existing Integrated Deepwater Program contract term that expires in June, 2007, minimum requirements for the purchase of a given or determinable number of specific assets;

(B) provisions that commit the Coast Guard without express written approval by the Coast Guard;

(C) any provision allowing for equitable adjustment that differs from the Federal Acquisition Regulations;

(4) for any contract extending the existing Integrated Deepwater Program contract term that expires in June, 2007, is reviewed by, and addresses recommendations made by, the Under Secretary of Defense for Acquisition, Technology, and Logistics through the Defense Acquisition University in its Quick Look Study dated February 5, 2007; and

(5) meets the requirements of the Systems Acquisition Manual.

### SEC. 6. IMPROVEMENTS IN COAST GUARD MANAGEMENT.

(a) **IN GENERAL.**—As soon as practicable after the date of enactment of this Act, the Commandant shall take action to ensure that—

(1) the measures contained in the Coast Guard's report entitled *Coast Guard: Blue Print for Acquisition Reform* are implemented fully;

(2) any additional measures for improved management recommended by the Defense Acquisition University in its Quick Look Study of the United States Coast Guard Deepwater Program, dated February 5, 2007, are implemented;

(3) integrated product teams, and all higher-level teams that oversee integrated product teams, are chaired by Coast Guard personnel; and

(4) the Assistant Commandant for Engineering and Logistics is designated as the Technical Authority for all design, engineering, and technical decisions for the Integrated Deepwater Program.

(b) **TRANSFER.**—

(1) **IN GENERAL.**—Section 93(a) of title 14, United States Code, is amended—

(A) by striking “and” after the semicolon in paragraph (23);

(B) by striking “appropriate.” in paragraph (24) and inserting “appropriate; and”; and

(C) by adding at the end thereof the following:

“(25) notwithstanding any other provision of law, in any fiscal year transfer funds made available for personnel, compensation, and benefits from the appropriation account ‘Acquisition, Construction, and Improvement’ to the appropriation account ‘Operating Expenses’ for personnel compensation and benefits and related costs necessary to execute new or existing procurements of the Coast Guard.”

(2) **NOTIFICATION.**—Within 30 days after making a transfer under section 93(a)(25) of title 14, United States Code, the Commandant shall notify the Senate Committee on Commerce, Science, Transportation and Infrastructure, the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the House Committee on Appropriations.

**SEC. 7. PROCUREMENT AND REPORT REQUIREMENTS.**

(a) **SELECTED ACQUISITION REPORTS.**—The Commandant shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure reports on the Integrated Deepwater Program that contain the same type of information with respect to that Program, to the greatest extent practicable, as the Secretary of Defense is required to provide to the Congress under section 2432 of title 10, United States Code, with respect to major defense procurement programs.

(b) **UNIT COST REPORTS.**—Each Coast Guard program manager under the Coast Guard's Integrated Deepwater Program shall provide to the Commandant, or the Commandant's designee, reports on the unit cost of assets acquired or modified that are under the management or control of the Coast Guard program manager on the same basis and containing the same information, to the greatest extent practicable, as is required to be included in the reports a program manager is required to provide to the service procurement executive designated by the Secretary of Defense under section 2433 of title 10, United States Code, with respect to a major defense procurement program.

(c) **REPORTING ON COST OVERRUNS AND DELAYS.**—Within 30 days after the Commandant becomes aware of a likely cost overrun or scheduled delay, the Commandant shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that includes—

(1) a description of the known or anticipated cost overrun;

(2) a detailed explanation for such overruns;

(3) a detailed description of the Coast Guard's plans for responding to such overrun and preventing additional overruns; and

(4) a description of any significant delays in procurement schedules.

(d) **PATROL BOAT REPORT.**—Not later than 90 days after the date of enactment of this Act the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on how the Coast Guard plans to manage the annual readiness gap of lost time for 110-foot patrol boats from fiscal year 2008 through fiscal year 2014. The report shall include—

(1) a summary of the patrol hours that will be lost due to delays in replacing the 110-foot cutters and reduced capabilities of the 110-foot cutters that have been converted;

(2) an identification of assets that may be used to alleviate the annual readiness gap of lost time for such patrol boats;

(3) a projection of the remaining operational lifespan of the 110-foot patrol boat fleet;

(4) a description of how extending through fiscal year 2014 the transfer agreement between the Coast Guard and the United States Navy for 5 Cyclone class 179-foot patrol coastal ships would effect the annual readiness gap of lost time for 110-foot patrol boats; and

(5) an estimate of the cost to extend the operational lifespan of the 110-foot patrol boat fleet for each of fiscal years 2008 through 2014.

**SEC. 8. GAO REVIEW AND RECOMMENDATIONS.**

(a) **AWARD FEE AND AWARD TERM CRITERIA.**—The Coast Guard shall consult with the Comptroller General no later than June 1, 2007 to ensure that the Government Accountability Office's recommendations, in its March, 2004, report entitled *Coast Guard's Deepwater Program Needs Increased Attention to Management and Contractor Oversight*, GAO-04-380, and any subsequent Government Accountability Office recommendations issued before March 1, 2007, with respect to award fee and award term criteria will be addressed to the maximum extent practicable in any contract, delivery order, or

task order or extension of the existing contract for procurement under or in support of the Integrated Deepwater Program entered into after the date of enactment of this Act.

(b) **OTHER RECOMMENDATIONS.**—The Commandant shall ensure that all other recommendations in that report, and any subsequent recommendations issued before March 1, 2007, are implemented to the maximum extent practicable by the Coast Guard within 1 year after the date of enactment of this Act. The Commandant shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the Coast Guard's progress in implementing such recommendations.

(c) **GAO REPORTS ON IMPLEMENTATION.**—Beginning 6 months after the date of enactment of this Act, the Comptroller General shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the Coast Guard's progress in implementing the provisions of this Act, the Government Accountability Office's recommendations, in its March, 2004, report entitled *Coast Guard's Deepwater Program Needs Increased Attention to Management and Contractor Oversight*, GAO-04-380, and any subsequent Government Accountability Office recommendations issued before March 1, 2007.

**SEC. 9. INSPECTOR GENERAL REVIEW OF DEEPWATER PROGRAM.**

Not later than 240 days after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security shall submit to the Secretary, and to Congress, a report on the acquisition of assets under the Deepwater program. The report shall include—

(1) a description of each decision, if any, of the Coast Guard or Integrated Coast Guard Systems relating to the acquisition of assets under the Deepwater program that directly or indirectly resulted in cost overruns or program cost increases to the United States;

(2) an assessment whether any decision covered by paragraph (1) violated the terms of the contract of Integrated Coast Guard Systems for the Deepwater program;

(3) an assessment of how much program costs under the Deepwater program have increased as a result of any such decision; and

(4) an assessment of whether the Coast Guard or Integrated Coast Guard Systems is responsible for the payment of any cost overruns associated with any such decision.

**SEC. 10. DEFINITIONS.**

In this Act:

(1) **COMMANDANT.**—The term “Commandant” means the Commandant of the United States Coast Guard.

(2) **INTEGRATED DEEPWATER PROGRAM.**—The term “Integrated Deepwater Program” means the Integrated Deepwater Systems Program described by the Coast Guard in its Report to Congress on *Revised Deepwater Implementation Plan*, dated March 25, 2005, including any subsequent modifications, revisions, or restatements of the Program.

(3) **PROCUREMENT.**—The term “procurement” includes development, production, sustainment, modification, conversion, and missionization.

Mr. REID. I ask unanimous consent that the Cantwell amendment to the committee substitute which is at the desk be agreed to; the committee substitute, as amended, be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table with no intervening action or debate; and any statements relating to this matter be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment (No. 3884) was agreed to.

(The amendment is printed in today's RECORD under “Text of Amendments.”)

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill (S. 924), as amended, was ordered to be engrossed for a third reading, was read the third time and passed, as follows:

S. 924

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) **SHORT TITLE.**—This Act may be cited as the “Integrated Deepwater Program Reform Act”.

(b) **TABLE OF CONTENTS.**—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Procurement structure.

Sec. 3. Alternatives Analysis.

Sec. 4. Certification.

Sec. 5. Contract requirements.

Sec. 6. Improvements in Coast Guard management.

Sec. 7. Department of Defense Consultation.

Sec. 8. Procurement and report requirements.

Sec. 9. GAO review and recommendations.

Sec. 10. Inspector General review of Deepwater program.

Sec. 11. Definitions.

**SEC. 2. PROCUREMENT STRUCTURE.**

(a) **IN GENERAL.**—

(1) **USE OF LEAD SYSTEMS INTEGRATOR.**—Except as provided in subsection (b), the United States Coast Guard may not use a private sector entity as a lead systems integrator for procurements under, or in support of, the Integrated Deepwater Program more than 90 days after the date of enactment of this Act.

(2) **FULL AND OPEN COMPETITION.**—The United States Coast Guard shall utilize full and open competition for any other procurement for which an outside contractor is used under, or in support of, the Integrated Deepwater Program after the date of enactment of this Act, unless otherwise excepted in accordance with the Competition in Contracting Act of 1984 and the Federal Acquisition Regulations.

(b) **EXCEPTIONS.**—

(1) **COMPLETION OF PROCUREMENT BY LEAD SYSTEMS INTEGRATOR.**—Notwithstanding subsection (a), the Coast Guard may use a private sector entity as a lead systems integrator—

(A) to complete any delivery order or task order that was issued to the lead systems integrator on or before the date that is 90 days after the date of enactment of this Act without any change in the quantity of assets or the specific type of assets covered by the order;

(B) for procurements after the date that is 90 days after the date of enactment of this Act of, or in support of—

“(i) the HC-130J aircraft, the HH-65 aircraft, and the C4ISR system, and

(ii) National Security Cutters or Maritime Patrol Aircraft under contract or order for construction as of the date that is 90 days after the date of enactment of this Act,

if the requirements of subsection (c) are met with respect to such procurements; and

(C) for the procurement, or in support, of additional National Security Cutters or Maritime Patrol Aircraft if the Commandant determines, after conducting the alternatives analysis required by section 3, that—

(i) the procurement is in accordance with the Competition in Contracting Act of 1984 and the Federal Acquisition Regulations;

(ii) the procurement and the use of a private sector entity as a lead systems integrator for the procurement is in the best interest of the Federal government; and

(iii) the requirements of subsection (c) are met with respect to such procurement.

(2) **AWARDS TO TIER 1 SUBCONTRACTORS.**—The Coast Guard may award to any Tier 1 subcontractor or subcontractor below the Tier 1 level any procurement that it could award to a lead systems integrator under paragraph (1).

(3) **REPORT ON DECISION-MAKING PROCESS.**—If the Commandant determines under subparagraph (B) or (C) of paragraph (1) that the Coast Guard will use a private sector lead systems integrator for a procurement, the Commandant shall notify in writing the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure of its determination and shall provide a detailed rationale for the determination.

(c) **LIMITATION ON LEAD SYSTEMS INTEGRATORS.**—Neither an entity performing lead systems integrator functions for a procurement under, or in support of, the Integrated Deepwater Program, nor a Tier 1 subcontractor, for any procurement described in subparagraph (B) or (C) of subsection (b)(1) may have a financial interest in a subcontractor below the tier 1 subcontractor level unless—

(1) the subcontractor was selected by the Coast Guard through full and open competition for such procurement;

(2) the procurement was awarded by the lead systems integrator or a subcontractor through full and open competition;

(3) the procurement was awarded by a subcontractor through a process over which the lead systems integrator or a Tier 1 subcontractor exercised no control; or

(4) the Commandant has determined that the procurement was awarded in a manner consistent with the Competition in Contracting Act of 1984 and the Federal Acquisition Regulations.

(d) **RULE OF CONSTRUCTION.**—The limitation in subsection (b)(1)(A) on the quantity and specific type of assets to which subsection (b) applies shall not be construed to apply to the modification of the number or type of any subsystems or other components of a vessel or aircraft described in subsection (b)(1)(B) or (C).

### SEC. 3. ALTERNATIVES ANALYSIS.

(a) **IN GENERAL.**—Except with respect to a procurement described in subparagraph (A) or (B) of section 2(b)(1) of this Act, or a procurement for which a request for proposals consistent with the Federal Acquisition Regulations has been issued before the date of enactment of this Act, no procurement of a major asset may be awarded under the Integrated Deepwater Program after the date of enactment of this Act until an alternatives analysis has been conducted under this section.

(b) **INDEPENDENT ANALYSIS.**—As soon as possible, but no later than 120 days after the date of enactment of this Act, the Commandant shall execute a contract for an alternatives analysis with a Federally Funded Research and Development Center, a qualified entity of the Department of Defense, or a similar independent third party entity that has appropriate acquisition expertise for independent analysis of all of the proposed procurements under, or in support of, the Integrated Deepwater Program, including procurements described in section 2(b)(1)(B), and for any future major changes of such procurements. The Commandant may not contract under this subsection for such an analysis with any entity that has a substantial

financial interest in any part of the Integrated Deepwater Program as of the date of enactment of this Act or in any alternative being considered.

(c) **ANALYSIS.**—The alternatives analysis provided pursuant to the contract under subsection (b) for procurements and feasible alternatives shall include—

(1) an examination of capability, interoperability, and other advantages and disadvantages;

(2) an evaluation of whether different quantities of specific assets could meet the Coast Guard's overall performance needs;

(3) a discussion of key assumptions and variables, and sensitivity to changes in such assumptions and variables;

(4) an assessment of technology risk and maturity;

(5) an evaluation of safety and performance records;

(6) a calculation of costs, including life-cycle costs; and

(7) a business case of viable alternatives.

(d) **REPORT TO CONGRESS.**—As soon as possible after an alternatives analysis has been completed, the Commandant shall develop a plan for the procurements addressed in the analysis, as well as procurements described in subsection (a) for which no alternatives analysis is required, and shall transmit a report describing the plan, and the schedule and costs for delivery of such procurements to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

(e) **EXPERIMENTAL, TECHNICALLY IMMATURE SYSTEMS.**—

(1) **IN GENERAL.**—No procurement of an experimental or technically immature major asset may be awarded under the Integrated Deepwater Program until an alternatives analysis has been conducted for such asset. The alternatives analysis shall include the same components as those set forth in subsection (c). In addition, the alternatives analysis shall also include—

(A) an examination of likely research and development costs and the levels of uncertainty associated with such estimated costs;

(B) an examination of likely production and deployment costs and the levels of uncertainty associated with such estimated costs;

(C) an examination of likely operating and support costs and the levels of uncertainty associated with such estimated costs;

(D) if they are likely to be significant, an examination of likely disposal costs and the levels of uncertainty associated with such estimated costs;

(E) an analysis of the risks to production cost, schedule, and life-cycle cost resulting from the experimental, technically immature nature of the systems under consideration; and

(F) such additional measures the Commandant determines to be necessary for appropriate evaluation of the asset.

(2) **REPORT.**—As soon as possible after an alternatives analysis pursuant to this subsection has been completed, the Commandant shall transmit a report that provides a detailed summary of the findings of the analysis, a plan for the procurements addressed in the analysis, and the schedule and costs for delivery of such procurements to the Senate Committee on Commerce, Justice, and Transportation and the House of Representatives Committee on Transportation and Infrastructure.

### SEC. 4. CERTIFICATION.

(a) **IN GENERAL.**—After the date of enactment of this Act, a contract, delivery order, or task order exceeding \$10,000,000 for procurement under, or in support of, the Coast

Guard's Integrated Deepwater Program may not be executed by the Coast Guard until the Commandant certifies that—

(1) appropriate market research has been conducted prior to technology development to reduce duplication of existing technology and products;

(2) the technology has been demonstrated to the maximum extent practicable in a relevant environment;

(3) the technology demonstrates a high likelihood of accomplishing its intended mission;

(4) the technology is affordable when considering the per unit cost and the total procurement cost in the context of the total resources available during the period covered by the Integrated Deepwater Program;

(5) the technology is affordable when considering the ability of the Coast Guard to accomplish its missions using alternatives, based on demonstrated technology, design, and knowledge;

(6) funding is available to execute the contract, delivery order, or task order; and

(7) the technology complies with all relevant policies, regulations, and directives of the Coast Guard.

(b) **LIMITATION.**—Nothing in this section shall prevent the Coast Guard from executing contracts or issuing delivery orders or task orders, for research and development or technology demonstrations under, or in support of, the Integrated Deepwater Program.

(c) **REPORT TO CONGRESS.**—The Commandant shall transmit a copy of each certification required under subsection (a) to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 30 days after the completion of the certification.

### SEC. 5. CONTRACT REQUIREMENTS.

The Commandant shall ensure that any contract, delivery order, or task order for procurement under, or in support of, the Integrated Deepwater Program executed by the Coast Guard after the date of enactment of this Act—

(1) addresses the recommendations related to award fee determination and award term evaluation made by the Government Accountability Office in its March, 2004, report entitled Coast Guard's Deepwater Program Needs Increased Attention to Management and Contractor Oversight, GAO-04-380, including the recommendation that any award or incentive fee be tied to program outcomes;

(2) addresses any subsequent Government Accountability Office recommendations that are issued at least 30 days prior to the execution of the contract, delivery order or task order when such recommendations are relevant to the contract terms;

(3) provides that certification of any Integrated Deepwater Program procurement for performance, safety, and other relevant factors determined by the Commandant will be conducted by an independent third party;

(4) does not include—

(A) provisions that commit the Coast Guard without express written approval by the Coast Guard; or

(B) any provision allowing for equitable adjustment that differs from the Federal Acquisition Regulations;

(5) meets the requirements of the Coast Guard Major Systems Acquisition COMDTINST Manual 5000.10(series); and

(6) for any contract, contract modification, or award term extending the existing Integrated Deepwater Program contract term—

(A) is reviewed by, and addresses recommendations made by, the Under Secretary of Defense for Acquisition, Technology, and Logistics through the Defense Acquisition

University in its Quick Look Study dated February 5, 2007; and

(B) does not include any minimum requirements for the purchase of a given or determinable number of specific assets.

#### SEC. 6. IMPROVEMENTS IN COAST GUARD MANAGEMENT.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Commandant shall take action to ensure that—

(1) the measures contained in the Coast Guard's report entitled Coast Guard: Blue Print for Acquisition Reform are implemented fully;

(2) any additional measures for improved management recommended by the Defense Acquisition University in its Quick Look Study of the United States Coast Guard Deepwater Program, dated February 5, 2007, are implemented;

(3) integrated product teams, and all higher-level teams that oversee integrated product teams, are chaired by Coast Guard personnel; and

(4) the Assistant Commandant for Engineering and Logistics is designated as the Technical Authority for all design, engineering, and technical decisions for the Integrated Deepwater Program.

(b) TRANSFER.—

(1) IN GENERAL.—Section 93(a) of title 14, United States Code, is amended—

(A) by striking “and” after the semicolon in paragraph (23);

(B) by striking “appropriate.” in paragraph (24) and inserting “appropriate; and”; and

(C) by adding at the end thereof the following:

“(25) notwithstanding any other provision of law, in any fiscal year transfer funds made available for personnel, compensation, and benefits from the appropriation account ‘Acquisition, Construction, and Improvement’ to the appropriation account ‘Operating Expenses’ for personnel compensation and benefits and related costs necessary to execute new or existing procurements of the Coast Guard.”.

(2) NOTIFICATION.—Within 30 days after making a transfer under section 93(a)(25) of title 14, United States Code, the Commandant shall notify the Senate Committee on Commerce, Science, Transportation and Infrastructure, the Senate Committee on Appropriations, the House Committee on Transportation and Infrastructure, and the House Committee on Appropriations.

#### SEC. 7. DEPARTMENT OF DEFENSE CONSULTATION.

(a) IN GENERAL.—The Coast Guard shall make arrangements as appropriate with the Department of Defense for support in contracting and management of procurements under the Integrated Deepwater Program. The Coast Guard shall also seek opportunities to leverage off of Department of Defense contracts, and contracts of other appropriate agencies, to obtain the best possible price for Integrated Deepwater Program assets. No later than one year after the date of enactment of this Act, the Commandant of the Coast Guard shall provide a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on agreements and other arrangements concluded pursuant to this subsection.

(b) ASSESSMENT.—Within 180 days after the date of enactment of this Act, the Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that—

(1) contains an assessment of current Coast Guard acquisition and management capabilities to manage procurements under or in support of the Integrated Deepwater Program;

(2) includes recommendations as to how the Coast Guard can improve its acquisition management, either through internal reforms or by seeking acquisition expertise from the Department of Defense; and

(3) addresses specifically the question of whether the Coast Guard can better leverage Department of Defense or other agencies' contracts that would meet the needs of the Integrated Deepwater Program in order to obtain the best possible price.

#### SEC. 8. PROCUREMENT AND REPORT REQUIREMENTS.

(a) PROCUREMENT SCHEDULES.—

(1) BUDGET JUSTIFICATION DOCUMENTS.—Each calendar year, not later than 45 days after the President submits the budget to Congress under section 1105 of title 31, United States Code, the Commandant shall submit to Congress budget justification documents regarding development and procurement schedules for each asset of the Integrated Deepwater Program for which any funds for procurement are requested in that budget.

(2) REQUIRED DOCUMENTS.—The budget justification documents required to be submitted under paragraph (1) for each asset for which funds for procurement are requested in the budget include—

(A) the development schedule for each asset and asset class, including estimated annual costs until development is completed;

(B) the procurement schedule for each asset and asset class, including estimated annual costs and units to be procured until procurement is completed;

(C) any variances in schedule or cost from the schedule and costs described in the plan submitted under section 3(d); and

(D) a projection of the remaining operational lifespan of each legacy asset and projected costs for sustaining such assets.

(b) QUARTERLY STATUS UPDATE.—The Commandant shall provide an update on the status of the Integrated Deepwater Program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure at the beginning of the first full fiscal year quarter after the date of enactment of this Act, and at the beginning of each subsequent fiscal year quarter.

(c) REPORTING ON COST OVERRUNS AND DELAYS.—

(1) REPORT REQUIRED.—The Commandant shall submit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure as soon as possible, but not later than 30 days after the Deepwater Program Executive Officer becomes aware of—

(A) a likely cost overrun greater than 10 percent of the program acquisition unit cost, the procurement unit cost, or the life cycle cost of an individual asset or a class of assets under the Integrated Deepwater Program; or

(B) a likely delay of more than 6 months in the delivery schedule for any individual asset or class of assets under the Integrated Deepwater Program.

(2) REQUIRED CONTENT.—The report shall include—

(A) a detailed explanation for the variance or delay;

(B) the current program acquisition unit cost and the complete history of changes to that cost from the schedule and costs described in the plan submitted under section 3(d);

(C) the current procurement unit cost and the complete history of changes to that cost from the schedule and costs described in the plan submitted under section 3(d); and

(D) a full life-cycle cost analysis for each asset or class of assets for which a report is being submitted under paragraph (1).

(3) SUBSTANTIAL VARIANCES IN COSTS OR SCHEDULE.—If a likely cost overrun is greater than 20 percent or a likely delay is greater than 12 months from the schedule and costs described in the plan submitted under section 3(d) or, if the plan has been revised, from the schedule and costs described in the revised plan, the Commandant shall include in the report required under paragraph (1) a written certification, with a supporting explanation, that—

(A) the asset or asset class is essential to the accomplishment of Coast Guard missions;

(B) there are no alternatives to such asset or asset class which will provide equal or greater capability in a more cost-effective and timely manner;

(C) the new estimates of the program acquisition unit cost or procurement unit cost are reasonable; and

(D) the management structure for the acquisition program is adequate to manage and control program acquisition unit cost or procurement unit cost.

(4) CERTIFIED ASSETS AND ASSET CLASSES.—If the Commandant certifies an asset or asset class under paragraph (3), the requirements of this subsection shall be based on the new estimates of cost and schedule contained in that certification.

(5) DEFINITIONS.—In this subsection:

(A) LIFE-CYCLE COST.—The term “life-cycle cost” means all costs for development, procurement, construction, and operations and support for a particular asset, without regard to funding source or management control.

(B) PROCUREMENT UNIT COST.—The term “procurement unit cost” means the amount equal to the total of all funds programmed to be available for obligation for procurement of a given asset class divided by the number of assets to be procured.

(C) PROGRAM ACQUISITION UNIT COST.—The term “program acquisition unit cost” means the amount equal to the total cost for development, procurement, and construction for each class of assets divided by the total number of assets in each class.

(d) PATROL BOAT REPORT.—Not later than 90 days after the date of enactment of this Act the Commandant shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on how the Coast Guard plans to manage the annual readiness gap of lost time for 110-foot patrol boats from fiscal year 2008 through fiscal year 2014. The report shall include—

(1) a summary of the patrol hours that will be lost due to delays in replacing the 110-foot cutters and reduced capabilities of the 110-foot cutters that have been converted;

(2) an identification of assets that may be used to alleviate the annual readiness gap of lost time for such patrol boats;

(3) a projection of the remaining operational lifespan of the 110-foot patrol boat fleet;

(4) a description of how extending through fiscal year 2014 the transfer agreement between the Coast Guard and the United States Navy for 5 Cyclone class 179-foot patrol coastal ships would effect the annual readiness gap of lost time for 110-foot patrol boats; and

(5) an estimate of the cost to extend the operational lifespan of the 110-foot patrol

boat fleet for each of fiscal years 2008 through 2014.

(e) REPORT ON C4ISR.—Not later than 90 days after the date of enactment of this Act, the Commandant shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the manner in which the Coast Guard is resolving the problems and responding to the recommendations contained in the August 2006 Department of Homeland Security Inspector General Report entitled Improvements Needed in the Coast Guard's Acquisition and Implementation of Deepwater Information Technology Systems.

(f) AMENDMENT OF 2006 ACT.—Section 408(a) of the Coast Guard and Maritime Transportation Act of 2006 is amended—

(1) by striking paragraphs (1) and (3); and  
(2) by redesignating paragraphs (2) and (4) through (8) as paragraphs (1) through (6), respectively.

#### SEC. 9. GAO REVIEW AND RECOMMENDATIONS.

(a) AWARD FEE AND AWARD TERM CRITERIA.—The Coast Guard shall consult with the Comptroller General to ensure that the Government Accountability Office's recommendations, in its March, 2004, report entitled Coast Guard's Deepwater Program Needs Increased Attention to Management and Contractor Oversight, GAO-04-380, and any subsequent Government Accountability Office recommendations with respect to award fee and award term criteria will be addressed to the maximum extent practicable in any contract, delivery order, or task order or extension of the existing contract for procurement under or in support of the Integrated Deepwater Program entered into after the date of enactment of this Act.

(b) OTHER RECOMMENDATIONS.—The Commandant shall ensure that all other recommendations in that report, and any subsequent recommendations issued before March 1, 2007, are implemented to the maximum extent practicable by the Coast Guard within 1 year after the date of enactment of this Act, and implement subsequent recommendations to the maximum extent practicable as they arise.

(c) GAO REPORTS ON IMPLEMENTATION.—Beginning 6 months after the date of enactment of this Act, the Comptroller General shall submit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the Coast Guard's progress in implementing the provisions of this Act, the Government Accountability Office's recommendations, in its March, 2004, report entitled Coast Guard's Deepwater Program Needs Increased Attention to Management and Contractor Oversight, GAO-04-380, and any subsequent Government Accountability Office recommendations issued before March 1, 2007.

#### SEC. 10. INSPECTOR GENERAL REVIEW OF DEEPWATER PROGRAM.

Not later than 240 days after the date of the enactment of this Act, the Inspector General of the Department of Homeland Security shall submit to the Secretary, and to Congress, a report on the acquisition of assets under the Deepwater program. The report shall include—

(1) a description of each decision, if any, of the Coast Guard or Integrated Coast Guard Systems relating to the acquisition of assets under the Deepwater program that directly or indirectly resulted in cost overruns or program cost increases to the United States; and  
(2) an assessment whether any decision covered by paragraph (1) violated the terms of the contract of Integrated Coast Guard Systems for the Deepwater program;

(3) an assessment of how much program costs under the Deepwater program have increased as a result of any such decision; and

(4) an assessment of whether the Coast Guard or Integrated Coast Guard Systems is responsible for the payment of any cost overruns associated with any such decision.

#### SEC. 11. DEFINITIONS.

In this Act:

(1) COMMANDANT.—The term "Commandant" means the Commandant of the United States Coast Guard.

(2) INTEGRATED DEEPWATER PROGRAM.—The term "Integrated Deepwater Program" means the Integrated Deepwater Systems Program described by the Coast Guard in its Report to Congress on Revised Deepwater Implementation Plan, dated March 25, 2005, including any subsequent modifications, revisions, or restatements of the Program.

(3) PROCUREMENT.—The term "procurement" includes development, production, sustainment, modification, conversion, and missionization.

#### ENERGY BILL SIGNING

Mr. REID. Mr. President, I just returned from the White House for the signing of the Energy bill. It is important to note Senator CANTWELL was not at the signing but how important she was. She is not a committee chair, but she was extremely valuable in everything we did getting that Energy bill passed. She was instrumental in working out a number of disputes keeping the bill from passing. But with her hard work, when she focuses on something, it really helps a lot. I have had experience with her in the past. Her work on the Energy bill was extremely invaluable. I appreciate her help very much.

#### NATIONAL RESERVIST AND VETERAN SMALL BUSINESS REAUTHORIZATION AND OPPORTUNITY ACT OF 2007

Mr. REID. Mr. President, I ask unanimous consent that the Small Business and Entrepreneurship Committee be discharged from further consideration of S. 1784 and the Senate then proceed to its immediate consideration.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1784) to amend the Small Business Act to improve programs for veterans, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. KERRY. Mr. President, a few months ago, I introduced the Military Reservist and Veteran Small Business Reauthorization and Opportunity Act. As the chairman of the Senate Committee on Small Business and Entrepreneurship, I was gratified that I was able to work with Ranking Member Senator SNOWE on behalf of this Nation's veterans. I was also pleased that this bill was added by unanimous consent as an amendment to the Department of Defense Authorization, although disappointed when the final

House-Senate negotiated compromise did not make it as part of the final bill.

In November, Senator SNOWE and I sought to pass this bill in the Senate only to meet with objections from my respected colleague from Oklahoma. I am pleased to say that Senator COBURN has worked with me in good faith and that we have reached an agreement that addresses his concerns. We have sought to protect the language that the House and Senate agreed upon and done our utmost to improve the resources that are available to our Nation's veterans. Although this bill is not perfect or exactly as I may have envisioned, it is an important step forward in supporting the American dream of business ownership for veterans and reservists.

Passing these provisions into law has been one of my highest priorities since becoming chairman of the Committee on Small Business and Entrepreneurship in January. My first hearing as chairman was devoted to veteran small business issues, and this bill arises directly from the complaints that we heard there. America's veterans and reservists have sacrificed enough in fighting for our country; they shouldn't have to sacrifice their jobs and their livelihoods when they come home.

There are 25 million veterans in this country. In the last 4 years, alone, nearly 600,000 veterans have returned from serving in Iraq and Afghanistan. Roughly 56 percent are reserve and National Guard members, who continue to serve this Nation at unprecedented levels. This is taking a toll not just on their families, but on their businesses as well. We are in an era where employers do not want to hire reservists because they know they will be called up for lengthy deployments. At a Small Business Committee hearing on veterans' issues earlier this year, one of the witnesses raised concerns about a lack of employer support for reservists due to the new policy that allows reservists to be called up for a second tour of 24 months.

I am also deeply concerned that recently discharged veterans have a higher unemployment rate—double that of their civilian counterparts. In addition, the number of service disabled veterans is increasing—167,000 discharged between 2002 and 2005—and their self-employment rate is lower than the national average.

This bill is a first step in addressing these concerns and it builds on important lessons we learned from Vietnam, not to leave another generation of veterans behind.

The Military Reservists and Veteran Small Business Reauthorization and Opportunity Act of 2007 takes a number of steps to improve the Government's role in supporting our veterans. Specifically, it reauthorizes the veteran programs in the Small Business Administration. This legislation increases the funding authorization for the Office of Veteran Business Development from